REMARKS

Applicant amends claims 1 and 10, and claims 1-11 are pending in this application. Applicant respectfully requests allowance of all the pending claims.

Specification Objections

The Examiner objects to the specification because the trademark GORTEX was used in the specification on page 1 and, although it was capitalized, it was not accompanied by the generic terminology. In response, Applicant amends the specification to recite that GORTEX is a brand of breathable, waterproof fabric. Accordingly, Applicant respectfully requests the Examiner to withdraw the objection to the specification.

Claim Rejections – 35 U.S.C. §103(a)

The Examiner rejects claims 1-11 under 35 U.S.C. §103(a) as being unpatentable over United States Patent No. 6,263,510 ("Bay").

Amended independent claim 1 recites an article of clothing including outer and inner fabric layers. The outer fabric layer includes an outer opening, and the inner fabric layer includes an inner opening. The inner fabric layer is substantially waterproof and is coupled to the outer fabric layer. A water-resistant closure is coupled to the inner fabric layer adjacent the inner opening and accessible through the outer opening.

Bay discloses a ventilating garment including an outer shell layer (16) and an inner mid-liner layer (18) coupled to the outer shell layer (16) such that vent openings (51, 51') located on the shell (16) and the mid-liner (18) are aligned with each other. As best shown in Fig. 7, the air (11) flows through the shell vent opening (51) and the mid-liner vent opening (51') to reach the body of the wearer 200. Stretchable mesh material (54, 54') is sewn across both of the vent openings (51, 51'). The shell vent opening (51) is selectively closeable by closure mechanism (56), and the mid-liner vent opening (51') is selectively closeable by closure flap (61'). The closure flap (61') is only accessible from the interior of the inner mid-liner layer (18) and can be manipulated between the open and closed positions by attaching the flap (64') between alternate VELCRO tabs.

Bay does not teach or suggest a water-resistant closure that is coupled to the inner fabric layer adjacent the inner opening and that is accessible through the outer opening. Bay does not

teach or suggest any water-resistant closure coupled to the inner fabric layer whatsoever, let alone one that is accessible through the outer opening. Rather, Bay discloses a non-water-resistant flap (64') that is only accessible from the interior of the mid-layer (18).

Further, one of ordinary skill in the art would not be motivated to move the flap (64') to the opposite side of the mid-layer (i.e., between the mid-layer (18) and the shell (16)) because, if moved, the flap (64') would not only remain inaccessible through the outer vent (51), but it would also be inaccessible from the inner vent (51') as well. Specifically, the flap (64') would not be accessible through the outer vent (51) because the outer vent (51) is covered by the mesh material (54). Likewise, the flap (64') would not be accessible through the inner vent (51') because the inner vent is covered by the mesh material (54'). Therefore, one of ordinary skill in the art would not be motivated to move the location of the flap (64') from the interior of the mid-liner (18) to the exterior of the mid-liner (18) because, if moved, the flap (64') would be inaccessible from either side of the garment.

In addition, one of ordinary skill in the art would not be motivated to replace the non-water-resistant flap (64') with a water-resistant closure because the shell vent (51) already resists water from entering the vents (51, 51'). Specifically, the shell vent (51) includes a water-resistant closure mechanism (56) that prevents any air and water from entering the garment. Therefore, one of ordinary skill in the art would not be motivated to replace the non-water resistant flap (64') with a water-resistant closure because any additional water-resistant closure would serve a redundant function of the closure mechanism (56).

For these reasons, Bay does not teach or suggest all of the claim limitations of independent claim 1. Further, one of ordinary skill in the art would not be motivated to modify the ventilating garment of Bay to anticipate the subject matter of claim 1. Therefore, Applicant respectfully submits that the Examiner has failed to present a *prima facie* case of obviousness of claim 1 based upon the prior art as required by 35 U.S.C. §103.

Accordingly, independent claim 1 is allowable. Claims 2-9 depend from allowable independent claim 1 and are therefore allowable for the same and other reasons.

Amended independent claim 10 recites a method of making an article of clothing including providing an outer fabric layer defining an outer opening, providing a substantially waterproof inner fabric layer defining an inner opening, providing a water-resistant closure, coupling the water-resistant closure adjacent the inner opening, and coupling the waterproof

inner fabric layer to the outer fabric layer to extend across the outer opening, and accessing the water-resistant closure through the outer opening.

Bay does not teach or suggest coupling a water-resistant closure to the inner fabric layer adjacent the inner opening and accessing the water-resistant closure through the outer opening. Bay does not teach or suggest any water-resistant closure coupled to the inner fabric layer whatsoever, let alone one that is accessible through the outer opening. Rather, Bay discloses a non-water-resistant flap (64') that is only accessible from the interior of the mid-layer (18).

Also, as discussed above with respect to claim 1, one of ordinary skill in the art would not be motivated to move the location of the flap (64') from the interior of the mid-liner (18) to the exterior of the mid-liner (18) because, if moved, the flap (64') would be inaccessible from either side of the garment. In addition, one of ordinary skill in the art would not be motivated to replace the non-water resistant flap (64') with a water-resistant closure because any additional water-resistant closure would serve a redundant function of the closure mechanism (56).

For these reasons, Bay does not teach or suggest all of the claim limitations of independent claim 10. Further, one of ordinary skill in the art would not be motivated to modify the ventilating garment of Bay to anticipate the subject matter of claim 10. Therefore, Applicant respectfully submits that the Examiner has failed to present a *prima facie* case of obviousness of claim 10 based upon the prior art as required by 35 U.S.C. §103.

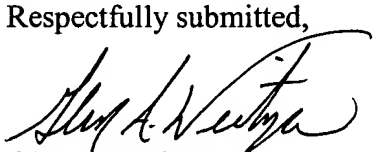
Accordingly, independent claim 10 is allowable. Claim 11 depends from allowable independent claim 10 and is therefore allowable for the same and other reasons.

In view of the foregoing, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 1-11 and allowance of claim 1-11.

Although Applicant has submitted arguments in response to the Examiner's 35 U.S.C. §103(a) rejections, Applicant does not admit that Bay is prior art and reserves the right to antedate Bay, if necessary.

The Examiner is invited to contact the undersigned attorney should the Examiner determine that such action would facilitate the prosecution and allowance of the present application.

Respectfully submitted,



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